

be insolvent.—The original bond, bill, or note, should be produced ; or, if lost, an authenticated copy, or other proof.—No claim can be admitted which did not exist, as such, against the deceased.—Claims withdrawn, to be re-stated, considered in the nature of an amended bill.—Where creditors come in so late as to require the distribution to be re-cast, they must defray the expense of such re-statement.

THIS was a creditor's bill filed on the 15th of July, 1826, by *William Simmons, Richard Simmons, James Owens, and John Sellman*, against *Benjamin Tongue, Elizabeth Tongue, Sarah Tongue, Thomas I. Hall, John N. Watkins, and William Ennis*. The bill states, that the late *Thomas Tongue*, at the time of his death, was indebted to the plaintiff *William Simmons* by notes and open account to the amount of \$448 17; to the plaintiff *Richard Simmons* by note in the sum of \$500; to the plaintiff *James Owens* in the sum of \$304 15 on an open account; and to the plaintiff *John Sellman* on open account and a note in the sum of \$356 59. That the plaintiffs *Owens* and *Sellman* had endorsed for the late *Thomas Tongue* several notes to the amount of \$5,000 and upwards, which had been negotiated at The Farmers Bank of Maryland, and for which they were then liable; that the plaintiff *Sellman* had become surety for the late *Thomas Tongue*, in a testamentary bond given by him as executor of his father, from whose estate there was still due by the late *Thomas Tongue* to his sister, the sum of \$4,000, for which this plaintiff was liable; that in the month of January, 1826, *Thomas Tongue* died intestate, leaving the defendants *Benjamin Tongue, Elizabeth Tongue, Sarah Tongue* and *Thomas Tongue*, his infant children and heirs at law; that administration had been granted to the defendant *Thomas I. Hall*; that the personal estate of the intestate would not be sufficient to pay his debts; that he had died seised of several parcels of land; and, in his life-time, had purchased a tract of land, sold under a decree of this court to satisfy a mortgage which had been assigned to him and the defendant *Thomas I. Hall*; that the sale of this parcel of land was made by the defendant *John N. Watkins*, as trustee in a suit in which this defendant *William Ennis* was the defendant, and had been finally ratified; and therefore this land was liable in this case to the extent of the late *Thomas Tongue's* interest as assignee of a part of the mortgage debt, after satisfying all the costs and prior claims in that suit. Whereupon the bill prayed that the real estate might be sold, &c.

On the 6th of September, 1826, the defendant *Hall* put in his answer, in which he admitted, that the plaintiffs were creditors of